

Notice of Allowability

Application No.

10/069,635

Examiner

Gregory R. Del Cotto

Applicant(s)

DYKSTRA ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--
All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to _____.
2. ☒ The allowed claim(s) is/are 1, 3-9, and 11-15 renumbered 1-13.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 3/17/05.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Gregory R. Del Cotto
Primary Examiner
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DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-4 and 59, drawn to a method for laundering comprising contacting a fabric in need of cleaning.

Group II, claim(s) 5-58 and 60-63, drawn to a bleaching composition.
The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Claim 1, at least, is anticipated by or obvious over Madison et al (US 5,550,256). Consequently, the special technical feature which links claims 1-63, an organic catalyst, does not provide a contribution over the prior art, so unity of invention is lacking.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

1. Embodiments wherein the organic catalyst is aryliminium cations and polyions having formulas I and XI.
2. Embodiments wherein the organic catalyst is aryliminium zwitterions having formula II and XII.
3. Embodiments wherein the organic catalyst is a modified amine of formula V and XV.

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4. Embodiments wherein the organic catalyst is a modified amine of formula VI and XVI.

5. Embodiments wherein the organic catalyst is a modified amine oxide of formula VII and XVII.

6. Embodiments wherein the organic catalyst is a modified amine oxide of formula VIII and XVIII.

7. Embodiments wherein the organic catalyst is a modified amine oxide of formula IX and XIX.

8. Embodiments wherein the organic catalyst is a modified amine oxide of formula X and XX.

9. Embodiments wherein the organic catalyst has formula XXIa and XXVIIIa.

10. Embodiments wherein the organic catalyst has formula XXIb and XXVIIIb.

11. Embodiments wherein the organic catalyst has formula XXII and XXIX

12. Embodiments wherein the organic catalyst has formula XXIII.

13. Embodiments wherein the organic catalyst is an oxaziridinium cations and polyion having formula III and XIII.

14. Embodiments wherein the organic catalyst is an oxaziridinium zwitterions having formula IV and XIV.

15. Embodiments wherein the organic catalyst has formula XXIVa and XXXIa.

16. Embodiments wherein the organic catalyst has formula XXIVb and XXXIb.

17. Embodiments wherein the organic catalyst has formula XXV and XXXII.

18. Embodiments wherein the organic catalyst has formula XXVI.

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19. Embodiments wherein the organic catalyst has formula XXVII.

20. Embodiments wherein the organic catalyst has formula XXVI

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

1. Claims 1-15.
2. Claims 1-15.
3. Claims 1-15 and 32-63.
4. Claims 1-15 and 32-63.
5. Claims 1-63.
6. Claims 1-63.
7. Claims 1-63.
8. Claims 1-63.
9. Claims 1-15.

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10. Claims 1-15.
11. Claims 1-15.
12. Claims 1-15.
13. Claims 1-15.
14. Claims 1-15.
15. Claims 1-15.
16. Claims 1-15.
17. Claims 1-15.
18. Claims 1-15.
19. Claims 1-15.
20. Claims 1-15.

The following claim(s) are generic: Claims 1 and 5.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Pursuant to PCT Rule 13.2 and PCT Administrative Instructions, Annex B, Part 1(f)(I)(B)(2), the species are not art recognized equivalents.

During a telephone conversation with James McBride on March, 17, 2005, a provisional election was made with traverse to prosecute the invention of Group II, claims 5-58 and 60-63, and the species of Formula I and Formula XI. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-4 and 16-

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63 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with James McBride on March 17, 2005.

The application has been amended as follows:

The Specification:

As the first sentence of the specification, insert the following sentence:

– This application claims priority under 35 USC 119(e) to provisional application 60/151,002, filed 8/27/99 and provisional application 60/151,004, filed 8/27/99. –

The Abstract:

As the last page of the specification, insert the following Abstract:

– Abstract of the Disclosure

The present invention relates to a method for the controlled availability formulation components, such as organic catalysts, into a wash solution. More particularly, the present invention relates to products and bleaching compositions containing such formulation components and laundry methods employing such formulation components. –

The Claims:

In claim 1, line 1, delete "with an organic catalyst by controlled availability method" and insert – with a bleaching composition according to claim 5 –.

In claim 3, line 1, delete "2" and insert – 1 –.

In claim 3, line 3, delete "a)".

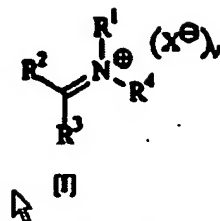
In claim 3, line 24, delete the text beginning with ";..." and ending with "...mixtures thereof" on line 208.

In claim 5, line 1, after "composition" insert – in granular, powder, bar, paste, gel, pill, tablet, or gelcap form –.

In claim 5, line 3, delete "an" and insert – an encapsulated or agglomerated –

In claim 5, line 3, after "catalyst" insert – selected from the group consisting of aryliminium cations and aryliminium polyions, which have a net charge of from about +3 to about -3, that are represented by the formula [I]:

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where R^2 and R^3 are independently selected from substituted or unsubstituted radicals selected from the group consisting of H, alkyl, cycloalkyl, aryl, alkaryl, aralkyl, heterocyclic ring, silyl, nitro, halo, cyano, sulfonato, alkoxy, keto, carboxylic, and carboalkoxy radicals; R^1 and R^4 are selected from substituted or unsubstituted, saturated or unsaturated radicals selected from the group consisting of H, alkyl, cycloalkyl, aryl, alkaryl, aralkyl, heterocyclic ring, silyl, nitro, halo, cyano, alkoxy, keto and carboalkoxy radicals; and X^- is a suitable charge-balancing counterion; and v is an integer from 1 to 3:

In claim 5, line 5, after "method" insert --, the availability of said organic catalyst being delayed until after said peroxygen source has been released, such that said organic catalyst is made available by said controlled availability method --.

In claim 11, line 1, delete "10" and insert - 5 --.

In claim 11, line 3, delete "a)".

In claim 11, line 24, delete the text beginning with "...;" and ending with "...mixtures thereof" in line 208.

In claim 12, line 1, delete "compound" and insert - composition --.

In claim 13, line 1, delete "an organic catalyst" and insert - a bleaching composition according to claim 5 --.

In claim 13, line 3, delete "wherein the organic catalyst becomes available in said wash solution by a controlled availability method".

Cancel claims 2, 10, and 16-63.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Note that, the Examiner's Amendment is sufficient to place the instant claims in condition for allowance. Applicant has agreed to cancel non-elected claims 16-63.

Claims 5-15 are directed to an allowable product. Pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), claims 1-4, directed to the process of making or using the patentable product, previously withdrawn from consideration as a result of a restriction requirement, are now subject to being rejoined. Process claims 1-4 are hereby rejoined and fully examined for patentability under 37 CFR 1.104. In accordance with the Official Gazette notice, *supra*, process claim 59, which does not depend from or otherwise include all the limitations of the allowable product, has NOT been rejoined.

Of the references of record, the most pertinent is Miracle et al (US 5,576,282). Miracle et al teach bleach boosters comprising zwitterionic imines and anionic imine polyions having a net negative charge. The bleach boosters increase bleaching effectiveness in lower temperature solutions and demonstrate superior color safety profiles. See Abstract. However, Miracle et al does not teach a bleaching composition or method of bleach fabrics using such a composition containing a peroxygen source and a bleach catalyst wherein the bleach catalyst is encapsulated or agglomerated such that its availability to clean is delayed until the peroxygen source has been released as recited by the instant claims. Accordingly, since the prior art fails to teach or suggest

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such a composition and method of using such a composition as recited by the instant claims, the instant claims are deemed allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gregory R. Del Cotto

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Primary Examiner
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GRD
March 17, 2005